IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.32762 of 1997

Dated: March 14, 2007

Between:

Y. Guramma, W/o. Yalamanchaiah, 38 years,
R/o. Usirikayalapalli, Singareni Mandal,
Khammam District and others.

... Petitioners

And

The Special Deputy Collector, IPT & Railways,
Khammam.

… Respondent

Order:

This Writ Petition has been filed seeking Mandamus to direct the respondent herein to re-determine the compensation which was the subject matter of Award No.2 of 1986 dated 16-07-1986 in accordance with the judgment and decree dated 17-08-1994, passed in O.P.No.170 of 1991, by the learned Senior Civil Judge, Kothagudem.

2. Lands of petitioners along with one Banoth Jagmal, totally admeasuring Ac.78.02 guntas, were notified by issuing notification under Section 4(1) of the Land Acquisition Act on 10-01-1985, on a requisition made by the Singareni Collieries Co. Ltd. Pursuant to the said notification, award was passed by the Land Acquisition Officer determining the compensation payable to the lands of petitioners at Rs.4,000/- per acre, in Award No.2 of 1986 dated 16-07-1986. One of the owners, whose lands in S.No.548/5 were also acquired and covered by the very same notification, received compensation under protest and as such the matter was referred to the civil court under Section 18 of the Act. Such reference was taken on file by the Sub-court, Khammam and numbered as O.P.No.170 of 1991. The said court re-determined the compensation and fixed the same at Rs.8,000/- per acre, thereby enhancing Rs.4,000/- than the original compensation. Subsequently, petitioners herein have applied for a copy of the award on 31-08-1994 and the same was furnished by the reference court on 31-09-1994. Thereafter, they submitted an application to the respondent under Section 28-A of the Act on 08-11-1994 seeking
re-determination of compensation for the lands acquired, taking into account the judgment of the aforesaid court in O.P.No.170 of 1991. However, it is alleged that no orders whatsoever have been passed. Hence, petitioners have come up with this Writ Petition.

3. Respondent has filed counter affidavit admitting that one of the claimant's case was referred to the civil court and the said court has enhanced the compensation from Rs.4,000/- to

Rs.8,000/- per acre. The only reason stated in the counter affidavit for not re-determining the compensation is that petitioner has filed an appeal under Section 54 of the Act before the competent authority and the same is pending consideration. Further, in the counter affidavit, it is also admitted that petitioners have filed applications under Section 28-A of the Act on 08-11-1994.

4. During the course of arguments, it is submitted that even the appeal filed by the Land Acquisition Officer aggrieved by the judgment of the aforesaid court, has also ended in dismissal before this court in A.S.No.213 of 1997.

5. In view of the provisions under Section 28-A of the Act, if the court allows to any of the applicants, covered by the same notification, any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification, though they had not made an application to the Collector under Section 18, can seek re-determination of compensation based on the award of the court, if the applications are filed within a period of three months from the date of the award of the court.

6. In this case, it is not in dispute that the subject matter of the land was referred to the civil court under Section 18 of the Act. The only objection for not re-determining the compensation will not survive now, as much as the appeal filed by the first respondent before this court has ended in dismissal. In that view of the matter, there appears no reason for not re-determining the

compensation which is covered by Award No.2 of 1996 dated 16-07-1986, as requested by the petitioners.

7. In the circumstances, the Writ Petition is disposed of directing the respondent to re-determine the compensation for the lands of the petitioners covered by Award No.2 of 1996 dated 11-07-1986 in accordance with the judgment and decree dated 17-08-1994 passed by the learned Senior Civil Judge in O.P.No.17 0f 1991, Kothagudem and pass appropriate orders within a period of three months from the date of receipt of this order. No costs.

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JUSTICE R. SUBHASH REDDY.

March 14, 2007
MRR